

**MINUTES OF THE  
GREENSBORO BOARD OF ADJUSTMENT  
MONDAY, AUGUST 22, 2005**

The regular meeting of the Greensboro Board of Adjustment was held on Monday, August 23, 2005 in the City Council Chamber of the Melvin Municipal Office Building, Greensboro, North Carolina, commencing at 2:00 p.m. The following members were present: Chair Hugh Holston, Sandra Anderson, Ann Buffington, Jim Kee and Russ Parmele. Bill Ruska, Zoning Administrator and Blair Carr, Esq., from the City Attorney's Office were also present.

Chair Holston called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the manner in which the Board conducts its hearings and the method of appealing any ruling made by the Board. Chair Holston also advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

**APPROVAL OF MINUTES OF LAST MEETING**

Ms. Buffington moved to approve the minutes of the July 2005 meeting as submitted, seconded by Ms. Anderson. The Board voted 4-0 in favor of the motion. (Ayes: Anderson, Buffington, Holston, Kee. Nays: Parmele.)

Chair Holston welcomed Russ Parmele as the newest member of the Board.

Mr. Ruska was sworn in for evidence to be given by him on the requests before the Board today.

Mr. Ruska stated that there has been a request that BOA-05-33, 920 N. Church Street be withdrawn. Kotis Properties is asking for a withdrawal of this request as they intend to file this application at a later date. This is due, in part, to a recent upgrade of Church Street to a major thoroughfare and there is some uncertainty of the legal location of the Church Street center line.

Ms. Buffington moved to withdraw BOA-05-33, seconded by Ms. Anderson. The Board voted 5-0 in favor of the motion. (Ayes: Anderson, Buffington, Holston, Kee and Parmele. Nays: None.)

Mr. Ruska stated that in regard to BOA-05-31, 2627 Stratford Road, the person making the appeal is not present but there is a representative who wishes to ask for a continuance.

Mr. Assaf Dagan asked that this matter be continued to allow the applicant an opportunity to attend the meeting at a later date.

Mr. Parmele moved that this matter be continued to the September meeting, seconded by Mr. Kee. The Board voted 5-0 in favor of the motion. (Ayes: Anderson, Buffington, Holston, Kee and Parmele. Nays: None.)

**NEW BUSINESS****APPEAL OF NOTICE OF VIOLATION****(A) BOA-05-30: 131 INDUSTRIAL AVENUE TRANSIT GRAPHIC ADVERTISING, INC. APPEALS A NOTICE OF VIOLATION IN REFERENCE TO THE USE OF A PROHIBITED SIGN THAT IS DESIGNED TO BE TRANSPORTED BY VEHICULAR MEANS. SECTIONS 30-2-2.11 AND 30-5-5.2. (DENIED)**

Mr. Ruska stated that Transit Graphic Advertising, Inc is the owner of the business located at 131 Industrial Avenue. The business advertises for other businesses using mobile billboards. The mobile billboards are attached to a truck cab and can be driven around on public streets or can be parked on a client's property for on-site promotional events. Their advertisement states that the signage can be back-lit for nighttime illumination. The zoning office has determined the sign functions as a portable sign. On May 27, 2005, the applicant was issued a Notice of Violation for the use of the portable sign. On June 10, 2005, the applicant appealed the Notice of Violation. Section 30-2-2.11 defines a *Portable sign* as: "Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to signs: designed to be transported by means of wheels; converted to A- or T-Frames; menu and sandwich board signs; gas or hot-air filled balloons; umbrellas used for advertising; signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operation of the business." Section 30-5-5.2 Prohibited signs states that: "Unless otherwise permitted under this Article, the following signs are prohibited in all zoning districts:" One of the types of prohibited signs is covered by subsection (C): "Portable signs, but not including signs which cannot be read from the public right-of-way and sandwich board signs as permitted in Section 30-5-5.17."

Chair Holston asked if there was anyone wishing to speak on this matter.

Betty Waller, 201 Shannon Oaks Circle, Suite 200, Cary, NC, attorney representing the applicant, stated that Transit Graphics is a small, family-owned company. She went into detail about the history of the company. Their argument is that they have obtained a business license from the City of Greensboro and the type of business they are in pre-dates this particular ordinance. They feel that these particular types of signs were never within the contemplation of the Council when it adopted the portable sign ordinance. She presented several handouts for the Board members to review.

Sherry Williams, Ad Runner Mobile Outdoor Advertising, Lewisville, NC, was sworn in and stated that they run a similar type business in Forsyth County. This has proved to be a very good way to advertise and is very cost-effective for local businesses as it has the ability to reach more people on a day-to-day basis.

There was no one to speak in opposition.

Ms. Waller presented affidavits for the Board members to review.

After some discussion among the Board members, Ms. Buffington moved that in regard to BOA-05-30, 131 Industrial Avenue, based on the stated findings of fact, that the Zoning Enforcement Officer be upheld and the appeal be denied, seconded by Mr. Permele. The Board voted 4-1 in favor of the motion. (Ayes: Buffington, Holston, Kee and Parmele. Nays: Anderson.)

Ms. Waller asked for a written decision from the Board.

- (B) BOA-05-31: 2627 STRATFORD ROAD FAINA BOCHKIS APPEALS A NOTICE OF VIOLATION IN REFERENCE TO A HOME OCCUPATION NOT OPERATING UNDER THE CURRENT REGULATIONS IN REGARDS TO HAVING MORE THAN ONE COMMERCIAL VEHICLE AT THE LOCATION. SECTION 30-5-2.47, PRESENT ZONING- RS-9, BS-51, CROSS STREET-DAVID CALDWELL DRIVE. (CONTINUED)**

#### **VARIANCE**

- (A) BOA-05-33: 920 NORTH CHURCH STREET KOTIS PROPERTIES REQUESTS A VARIANCE FROM THE MINIMUM CENTERLINE STREET SETBACK REQUIREMENT. VIOLATION: A PROPOSED RETAIL BUILDING WILL ENCROACH 16.5 FEET INTO A 100-FOOT SPECIAL CENTERLINE SETBACK FROM EAST WENDOVER AVENUE. SECTION 30-4-7.3(W), PRESENT ZONING-GB, BS-11, CROSS STREET-EAST WENDOVER AVENUE. (WITHDRAWN)**
- (B) BOA 05-34: 3404 HIGH POINT ROAD W.R.F.F., INC., REQUESTS A VARIANCE FROM THE MINIMUM SPACING REQUIREMENT THAT A BAR MUST MAINTAIN FROM RESIDENTIALLY ZONED PROPERTY. VIOLATION: THE PROPERTY LINE IS ADJACENT TO PROPERTY THAT IS ZONED RM-18 WHEN A 200 FOOT SEPARATION IS REQUIRED; THEREFORE, A ZERO FOOT SPACING VARIANCE IS REQUESTED. SECTION 30-5-2.18(B), PRESENT ZONING-HB, BS-43, CROSS STREET- ISLER STREET. (GRANTED)**

Mr. Ruska stated that W.R.F.F. Inc., is the owner of the property located at 3403 High Point Road. The lot is located on the north side of High Point Road east of South Holden Road and Cedar Fork Drive on zoning map block sheet 43 and is zoned HB. The applicant is proposing to operate a bar on the property. A bar is required to meet a 200 foot separation from residentially zoned property. The applicant is requesting a variance to be allowed to operate a bar that is adjacent to residentially zoned property; therefore, requesting a 200 foot spacing variance. The separation must be from property line to property line and not from the structure to the residential zoning line. The intent for the property line to property line separation was to include parking lots in the spacing since parking lots associated with bars can be the source of disruptive activities. The property was zoned Commercial N and Industrial L prior to the citywide 1992 rezoning. A nightclub was a permitted use in both districts and there were no zoning development standards for bars prior to the 1992 Unified Development Ordinance. The Property used to operate as a bar/lounge/nightclub. Licensing records indicate that the property operated as Dadio's Club/Bar from 1990 until late in the year of 2000. In December of 2000, the property was approved to operate as a teen recreational use that was called Confetti's. Since the property has operated as a teen/recreational event center, a conforming use, after the bar closed and after the adoption of the Unified Development Ordinance, a bar/nightclub use could not be approved to go back into this location. The property is shaped like a flag lot. The parking spaces are located on the pole portion of the lot and behind the building on the rear portion of the lot. Isler Street has been dedicated and extended across this lot, thus splitting the lot. There is no access to this property from Isler Street. The vehicular access is from High Point Road. The adjacent property located to the west is zoned CD-HB and RM-18, the adjacent property located to the north and east is zoned HB, and the nearby properties located on the south side of High Point Road are zoned CD-GB and LI.

Chair Holston asked if there was anyone wishing to speak on this matter.

Henry Isaacson, 101 W. Friendly Avenue, attorney representing the applicant, was sworn in and presented printed information for the Board members to review. He stated that the property has been owned since 1944 by family members of the Koury Corporation. He proposed that the Board consider three conditions for the possible granting of the variance requested. 1) A fence located on the property line between the subject property and property that is zoned RM-18 on the western side of the property. 2) No sexually oriented business would be allowed on the property. 3) This variance shall only apply to that portion of the property located between High Point Road and Isler Street. The hardship is that the owners voluntarily relinquished their alcohol permit and now that the area has become a viable and successful location, they are unable to compete with other nearby establishments and make reasonable use of this property. It is felt that this property can be easily operated without harm or disturbance to the adjoining RM-18 neighborhood. The property is configured so that it is conducive to the granting of the variance as the request is only for the southern portion of the property. The opaque fence will act as an additional barrier along with the existing trees.

There was no one to speak in opposition.

After some discussion Mr. Kee moved that in regard to BOA-05-34, 3404 High Point Road, based on the stated findings of fact, that the Zoning Enforcement Officer be overruled and the variance granted based on the following: There are practical difficulties or unnecessary hardships that result from the carrying out of the strict letter of this ordinance. If the applicant complies with the provisions of the ordinance they can make no reasonable use of the property because it has operated as a night club since the 1950s. The hardship of which the applicant complains results from unique circumstances related to the applicant's property because this use of the property has been the same since its incorporation. The hardship results from the application of this ordinance to the property because the property is actually being penalized because there was a voluntary change in the operation and the size of the property is such that the proposed use can continue without impact to the adjoining neighborhood. The hardship is not the result of the applicant's own actions because a management decision caused the change in use. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit because its location is in close proximity with other businesses that operate similarly. The granting of the variance assures the public safety and welfare and does substantial justice because the property has operated in this same location since its incorporation and there has been no bad history with this property. The proposed conditions and restrictions will be incorporated, 1) Owner shall construct and maintain a six foot opaque fence along its western property line beginning at a point fifteen feet south of the sidewalk on the southern side of Isler Street and running southward approximately three hundred feet to the eastern property line of the property; 2) No sexually oriented business shall be located on the subject property; 3) This variance shall only apply to that portion of the subject property located between High Point Road and Isler Street, seconded by Ms. Anderson. The Board voted 4-1 in favor of the motion. (Ayes: Anderson, Holston, Kee and Parmele. Nays: Buffington.)

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The Board of Adjustment meeting was adjourned at 5:39 p.m.

Respectfully submitted,

Hugh Holston, Chair  
Greensboro Board of Adjustment

HH/jd